Civil Writ Petition No.19488 of 2007.

IN THE HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT CHANDIGARH

...

Date of Decision: December 21, 2007

Ramesh Kumar **...** Petitioner

VERSUS

Union of India and others ... Respondents

CORAM : **HON'BLE MR.JUSTICE HEMANT GUPTA.**
HON'BLE MR. JUSTICE MOHINDER PAL.

1. Whether Reporters of Local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Manohar Dadwal, Advocate,
for the petitioner.

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MOHINDER PAL, J.

The petitioner was serving as a Constable in the Central Reserved Police Force at Chandigarh. On August 19, 1994, a case under Sections 398 and 506 of the Indian Penal Code (for short `the Code') was registered against him at Police Station North, Union Territory, Chandigarh, vide First Information Report No.106 for robbing at Sukhna Lake Mr. Sudeep Mahajan

and Ms. Gouri Banta of a watch, Rs.50/- in cash and a gold chain. On account of this, a departmental inquiry was initiated against him on the basis of following articles of charge:-

" **Article I**

That the said No.921174614 Ct/GD Ramesh Kumar of `A' coy of this unit left the company out post of `A' coy of 98 Bn. CRPC from CBI office, Chandigarh at about 1000 hrs on 19.8.94 without permission/information of the competent authority and thereby absented himself. He, therefore, committed a serious misconduct in his capacity as a member of the Force u/s 11 (1) of the CRPF Act 1949 read with Rule 27 of the CRPF Rules 1955.

Article II

That the said No.921174614 Ct. Ramesh Kumar of `A' coy of this unit, while moving around on Sukhana Lake in civil dress after being absent from duty/from out post A/98 at CBI Office, Chandigarh, threatened a couple namely Mr. Sudeep Mahajan and Ms.Gouri Banta and robbed them of a watch, Rs.50/- in cash and a gold chain thereby committing a grave offence of misconduct in his capacity as a member of the Force u/s 11(1) of CRPF Act 1949 read with Rule 27 of CRPF Rules of

1955."

In the inquiry, the articles of charge were found to be proved against the petitioner and he was awarded the penalty of dismissal from service by the Commandant 98 Battalion, Central Reserved Police Force, Chandigarh, vide order dated November 26, 1994 (Annexure P-1).

In the criminal case, the petitioner was convicted and sentenced to undergo rigorous imprisonment for seven years and to pay fine of Rs.5,000/- and in default thereof to undergo further rigorous imprisonment for three months under Section 398 of the Code and to undergo rigorous imprisonment for three years under Section 506 of the Code by the Additional Sessions Judge, Chandigarh, vide judgment dated February 05, 1997. However, on appeal, he was acquitted by this Court vide judgment dated November 27, 1997.

After his acquittal by this Court, the petitioner prayed for his reinstatement in service and, ultimately, served legal notice dated August 17, 2006 (Annexure P-6) in this regard. In reply (Annexure P-7) to the said legal notice, the office of the Directorate General, Central Reserved Police Force, New Delhi, informed the counsel for the petitioner as under:-

" Your client was dismissed based on the charges framed on a D.E. Your client had submitted appeal and revision petition

which were rejected by the appellate and revisionary authority office order No.R.XIII-1/98-DA-1 dated 1.12.98 and No.R.XIII.10/99-Adm-3 dated 2.2.2000 respectively.

All the points mentioned in the legal notice have been discussed adequately, in foregoing paras and after having gone through all the relevant documents, there is no other cogent reasons to interfere into the orders passed by the competent authority. The instant legal notice does not disclose the infringement of any legal, fundamental or statutory rights of your client hence nothing can be done."

In this petition filed under Articles 226/227 of the Constitution of India, the petitioners seeks issuance of a writ in the nature of certiorari quashing the afore-stated orders passed by the competent authorities.

After hearing the learned counsel for the petitioner and going through the records of this case, we do not find any merit in this writ petition. Acquittal of the petitioner in criminal case does not ipso facto entitle him to reinstatement in service. The acquittal does not affect the departmental action. The rules governing a criminal trial are so stringent that a delinquent official as an accused may get benefit of some lack of the prosecution and get acquittal, but that necessarily may not

entitle him clearance in the departmental inquiry. The petitioner, in spite of being a member of the disciplined force, indulged in committing robbery at a public place and the disciplinary authority, on the basis of evidence produced during the inquiry, awarded him the punishment of dismissal from service. While the object of criminal trial is to inflict appropriate punishment on the offender/delinquent, the purpose of departmental proceedings is to deal with the delinquent official in such a manner as to serve as a deterrent to other employes. The strict rules of evidence and procedure do not apply in departmental proceedings. The degree of proof which is necessarily required in order to record a conviction against the accused is also different as compared to the punishment in departmental proceedings.

In view of the above, we do not find any illegality in the impugned orders, which may warrant interference by this Court in exercise of its writ jurisdiction. Hence, this writ petition is dismissed.

(HEMANT GUPTA)
JUDGE

(MOHINDER PAL)
JUDGE

December 21, 2007.
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